

In re ) Fair Hearing No. 15,569  
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Appeal of )

The petitioner appeals a decision of the Department of Social Welfare finding that he is no longer eligible for VHAP benefits due to an increase in income.

1. The petitioner is a fifty-three-year-old man who worked as a carpenter until recently. When he lost his job, he was recruited by Vermont Associates to enter a retraining program for "dislocated older workers." His retraining efforts eventually led to his becoming a student at a culinary training school, which training he will complete in November of 1998.

2. For the calendar year 1998, the petitioner received a training grant from Vermont Associates of \$1,250 to help with his expenses. He also received federal grants and loans totalling \$9,325 for school (a VSAC loan and a PELL grant) of which \$7,500 was spent on tuition, \$494 for fees and \$300 for books. The Department counted the Vermont Associates loan (\$1,250) and the balance not used on tuition, fees, and books (\$1,031) as countable unearned income to the petitioner over the year, which amounted to

\$190.07 monthly.<sup>1</sup> This income did not put the petitioner over the maximum for VHAP eligibility. Starting in the middle of the year, however, the petitioner was also employed by the culinary school for forty hours per week at \$9.00 per hour.

3. This latter information caused the Department to recalculate the petitioner's eligibility for VHAP. His earned income from his job was determined to be \$1,548 per month. From this amount the Department deducted a \$90 standardized employment expense and \$400 in child support payments made by the petitioner. The balance, \$1,058, was added to his \$190.07 per month unearned loan and grant income for a total of \$1,248.07 in countable income. The Department compared that to a \$1,007 maximum income for one person and determined that the petitioner was now over income.

4. The petitioner was notified on July 10, 1998, that his health insurance would cease on September 30, 1998, due to excess income. (He was not found immediately ineligible because he was guaranteed the first six months under managed

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<sup>1</sup> The petitioner remembered these expenses somewhat differently at the hearing. Subsequent to the hearing, the Department submitted information in writing showing what amounts had been reported as received and expended for school fees. The petitioner was given an opportunity to rebut these figures but did not do so. Therefore, the Department's figures are taken as being most accurate. It should be pointed out that the figure used for this unearned income was not critical to the determination that the petitioner was over-income.

care.) The petitioner appealed that decision. He was notified by the Department that he could continue the insurance himself under the BlueFirst program but the petitioner investigated this and says that he cannot afford the \$198.82 per month premium.

5. The petitioner agrees that the figures used by the Department with regard to his earned income and child support figures are correct. While his account of the loans and grants was somewhat different at hearing, he did not dispute the Department's subsequent written confirmation of how loans were counted and expended. His appeal rests on the fact that he simply cannot afford health insurance in his situation. He pays \$500 per month in rent, \$400 for child support, \$35 for electricity, \$75 for back taxes to the IRS, \$65 for heating oil on a monthly basis and \$80 per month to drive to work. He also spends money for food. He has ongoing bills for doctors and medications in association with treatment for depression (he was recently separated from his wife and children against his will) which he cannot afford himself.

ORDER

The decision of the Department is affirmed.

REASONS

Under the VHAP program eligibility rules, earned income is countable and includes wages from profit and self-employment. W.A.M. 4001.81(c). That countable income is subject to a "standard employment expense deduction" of \$90. W.A.M. 4001.81(e). The regulations exclude from income "payments made pursuant to a court order for support." W.A.M. 4001.82. Under the regulations, the Department correctly figured the amount of earned income countable to the petitioner to be \$1,058 per month.

That income alone (without considering any countable income he might receive from school loans) is in excess of the maximum income for a one person household of \$1,007. See Procedures § 2420 (B)(3A). Therefore, it must be concluded that the Department's decision was correct even without regard to the school loan figures.

The petitioner indicated that he would be completing his school program by November of this year and expected to be employed thereafter, so the treatment of these loans might not be a future issue for him. He should be aware that the only information provided by the Department was that these were federal loans and grants but their exact source was not detailed. As a result, it was not possible to assess whether the Department correctly or incorrectly included any of these as income to him. However, as stated above, it was not necessary to do so at this time because

the petitioner had excess income from his employment alone.

The petitioner is provided a copy of the regulations in the footnote below so that he may be able to assess the countability of these loans should it become a problem for future eligibility.<sup>2</sup>

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<sup>2</sup> The regulations at W.A.M. § 4001.82 exclude the following loans:

2. All income to an undergraduate student (including parents or children in the VHAP group) from student grants, loans, or work study if:
  - a. such loans or grants are made under a program administered or insured by the U.S. Secretary of Education; or
  - b. the sponsor of the grant or loan precludes its use for maintenance purposes; or
  - c. the work/study program is administered by a college or university recognized by educational authorities and the undergraduate student is enrolled half time or more than half time as defined in relation to the definition of full time used by the school.

Examples of excludable income sources are: federal Pell Grants, Vermont Student Assistance Corporation grants or loans, federal Supplemental Educational Opportunity Grants (SEOG), and federal College Work-Study Programs. (CWSP).

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3. Student financial assistance provided under Title IV of the Higher Education Act or Bureau of Indian Affairs Student Assistance programs.

Examples of programs in Title IV of the Higher Education Act include:

- a. Federal Pell Grants
- b. Federal Supplemental Educational Opportunity Grants (SEOG).

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- c. State Student Incentive Grants (SSIG).
  - d. Federal College Work Study (CWSP)
  - e. Federal Perkins Loans. These are different from loans under the Carl D. Perkins Vocational and Applied Technology Education Act, which are not totally disregarded (see #4).
  - f. Education loans under the federal Family Educational Loan Program or the federal Direct Student Loans Program (Stafford or PLUS loans).
4. Student financial assistance provided under the Carl D. Perkins Vocational and Applied Technology Education Act when the assistance is made available to meet attendance costs. Attendance costs include:
- a. tuition and fees normally assessed a student carrying the same academic workload as the applicant/recipient, as determined by the institution including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study as the applicant/recipient; and
  - b. an allowance for books, supplies, transportation, dependent care and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

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